

FIRST REGULAR SESSION

# SENATE BILL NO. 284

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MUNZLINGER.

Read 1st time January 21, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1525S.02I

## AN ACT

To amend chapter 620, RSMo, by adding thereto one new section relating to a tax incentive for manufacturing investment.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 620, RSMo, is amended by adding thereto one new  
2 section, to be known as section 620.1930, to read as follows:

**620.1930. 1. This section shall be known and may be cited as the**  
2 **"Manufacturing Infrastructure Investment Act".**

3 **2. As used in this section, the following terms mean:**

4 **(1) "Approval", a document submitted by the department to the**  
5 **qualified manufacturing company or qualified supplier that states the**  
6 **benefits that may be provided under this section;**

7 **(2) "Capital investment", expenditures made by a qualified**  
8 **manufacturing company to retool or reconfigure a manufacturing**  
9 **facility directly related to the manufacturing of a new product or the**  
10 **expansion or modification of the manufacture of an existing product;**

11 **(3) "County average wage", the same meaning as such term is**  
12 **defined in section 620.1878;**

13 **(4) "Department", the department of economic development;**

14 **(5) "Facility", a building or buildings located in Missouri at which**  
15 **the qualified manufacturing company manufactures a product;**

16 **(6) "Full-time job", a job for which a person is compensated for**  
17 **an average of at least thirty-five hours per week for a twelve-month**  
18 **period, and one for which the qualified manufacturing company or**  
19 **qualified supplier offers health insurance and pays at least fifty**  
20 **percent of such insurance premiums;**

21 **(7) "NAICS industry classification", the most recent edition of the**

22 North American Industry Classification System as prepared by the  
23 Executive Office of the President, Office of Management and Budget;

24 (8) "New job", the same meaning as such term is defined in  
25 section 620.1878;

26 (9) "New product", a new model or line of a manufactured good  
27 that has not been manufactured in Missouri by the qualified  
28 manufacturing company at any time prior to the date of the notice of  
29 intent;

30 (10) "Notice of intent", a form developed by the department,  
31 completed by the qualified manufacturing company or qualified  
32 supplier and submitted to the department which states the qualified  
33 manufacturing company's or qualified supplier's intent to create new  
34 jobs or retain current jobs and make additional capital investment, as  
35 applicable, and request benefits under this section. The notice of intent  
36 shall specify the minimum number of such new or retained jobs and the  
37 minimum amount of such capital investment;

38 (11) "Qualified manufacturing company", a business with a NAICS  
39 code of 33-33 that:

40 (a) Manufactures goods at a facility in Missouri;

41 (b) In the case of the manufacture of a new product, commits to  
42 make a capital investment of at least seventy-five thousand dollars per  
43 retained job within no more than two years of the date the qualified  
44 manufacturing company begins to retain withholding tax under this  
45 section, or in the case of the modification or expansion of the  
46 manufacture of an existing product, commits to make a capital  
47 investment of at least fifty thousand dollars per retained job within no  
48 more than two years of the date the qualified manufacturing company  
49 begins to retain withholding tax under this section;

50 (c) Manufactures a new product or has commenced making  
51 capital improvements to the facility necessary for the manufacturing  
52 of such new product, or modifies or expands the manufacture of an  
53 existing product or has commenced making capital improvements to  
54 the facility necessary for the modification or expansion of the  
55 manufacture of such existing product;

56 (d) Continues to meet the requirements of paragraphs (a) to (c)  
57 of this subdivision for the withholding period; and

58 (e) Does not receive benefits under section 620.1910;

- 59           (12) "Qualified supplier", a manufacturing company that:
- 60           (a) Attests to the department that it derives more than ten
- 61 percent of the total annual sales of the company from sales to a
- 62 qualified manufacturing company;
- 63           (b) Adds five or more new jobs;
- 64           (c) Has an average wage, as defined in section 135.950, for such
- 65 new jobs that are equal to or exceed the lower of the county average
- 66 wage for Missouri as determined by the department using NAICS
- 67 industry classifications, but not lower than sixty percent of the
- 68 statewide average wage;
- 69           (d) Provides health insurance for all full-time jobs and pays at
- 70 least fifty percent of the premiums of such insurance; and
- 71           (e) Does not receive benefits under section 620.1910;
- 72           (13) "Retained job", the number of full-time jobs of persons
- 73 employed by the qualified manufacturing company located at the
- 74 facility that existed as of the last working day of the month
- 75 immediately preceding the month in which notice of intent is
- 76 submitted;
- 77           (14) "Statewide average wage", an amount equal to the quotient
- 78 of the sum of the total gross wages paid for the corresponding four
- 79 calendar quarters divided by the average annual employment for such
- 80 four calendar quarters, which shall be computed using the Quarterly
- 81 Census of Employment and Wages Data for All Private Ownership
- 82 Businesses in Missouri, as published by the Bureau of Labor Statistics
- 83 of the United States Department of Labor;
- 84           (15) "Withholding period", the seven- or ten-year period in which
- 85 a qualified manufacturing company may receive benefits under this
- 86 section;
- 87           (16) "Withholding tax", the same meaning as such term is defined
- 88 in section 620.1878.
- 89           3. The department shall respond within thirty days to a qualified
- 90 manufacturing company or a qualified supplier who provides a notice
- 91 of intent with either an approval or a rejection of the notice of
- 92 intent. Failure to respond on behalf of the department shall result in
- 93 the notice of intent being deemed an approval for the purposes of this
- 94 section.
- 95           4. A qualified manufacturing company that manufactures a new

96 product may, upon the department's approval of a notice of intent and  
97 the execution of an agreement that meets the requirements of  
98 subsection 8 of this section, but no earlier than January 1, 2016, retain  
99 one hundred percent of the withholding tax from full-time jobs at the  
100 facility for a period of ten years. A qualified manufacturing company  
101 that modifies or expands the manufacture of an existing product may,  
102 upon the department's approval of a notice of intent and the execution  
103 of an agreement that meets the requirements of subsection 8 of this  
104 section, but no earlier than January 1, 2016, retain fifty percent of the  
105 withholding tax from full-time jobs at the facility for a period of seven  
106 years. Except as otherwise allowed under subsection 7 of this section,  
107 the commencement of the withholding period may be delayed by no  
108 more than twenty-four months after execution of the agreement at the  
109 option of the qualified manufacturing company. Such qualified  
110 manufacturing company shall be eligible for participation in the  
111 Missouri works program in sections 620.2000 to 620.2020 for any new  
112 jobs for which it does not retain withholding tax under this section,  
113 provided all qualifications for such program are met.

114       5. A qualified supplier may, upon approval of a notice of intent  
115 by the department, retain all withholding tax from new jobs for a  
116 period of three years from the date of approval of the notice of intent  
117 or for a period of five years if the supplier pays wages for the new jobs  
118 equal to or greater than one hundred twenty percent of county average  
119 wage. Notwithstanding any other provision of law to the contrary, a  
120 qualified supplier that is awarded benefits under this section shall not  
121 receive any tax credit or exemption or be entitled to retain withholding  
122 under sections 100.700 to 100.850, sections 135.100 to 135.150, section  
123 135.535, sections 135.900 to 135.906, sections 135.950 to 135.970, section  
124 620.1881, or sections 620.2000 to 620.2020 for the same jobs.

125       6. Notwithstanding any other provision of law to the contrary,  
126 the maximum amount of withholding tax that may be retained by any  
127 one qualified manufacturing company under this section shall not  
128 exceed ten million dollars per calendar year. The aggregate amount of  
129 withholding tax that may be retained by all qualified manufacturing  
130 companies under this section shall not exceed fifteen million dollars  
131 per calendar year.

132       7. Notwithstanding any other provision of law to the contrary,

133 any qualified manufacturing company that is awarded benefits under  
134 this section shall not simultaneously receive tax credits or exemptions  
135 under sections 100.700 to 100.850, sections 135.100 to 135.150, section  
136 135.535, or sections 135.900 to 135.906 for the jobs created or retained  
137 or capital improvement which qualified for benefits under this  
138 section. The benefits available to the qualified manufacturing company  
139 under any other state programs for which the qualified manufacturing  
140 company is eligible and which utilize withholding tax from the jobs at  
141 the facility shall first be credited to the other state program before the  
142 applicable withholding period for benefits provided under this section  
143 shall begin. These other state programs include, but are not limited to,  
144 the Missouri works jobs training program under sections 620.800 to  
145 620.809, the real property tax increment allocation redevelopment act  
146 under sections 99.800 to 99.865, or the Missouri downtown and rural  
147 economic stimulus act under sections 99.915 to 99.980. If any qualified  
148 manufacturing company also participates in the Missouri works jobs  
149 training program in sections 620.800 to 620.809, such qualified  
150 manufacturing company shall not retain any withholding tax that has  
151 already been allocated for use in the new jobs training program. Any  
152 qualified manufacturing company or qualified supplier that is awarded  
153 benefits under this program and knowingly hires individuals who are  
154 not allowed to work legally in the United States shall immediately  
155 forfeit such benefits and shall repay the state an amount equal to any  
156 withholding taxes already retained. Subsection 5 of section 285.530  
157 shall not apply to qualified manufacturing companies or qualified  
158 suppliers which are awarded benefits under this program.

159 8. Within six months of completion of a notice of intent required  
160 under this section, the qualified manufacturing company shall enter  
161 into an agreement with the department that memorializes the content  
162 of the notice of intent, the requirements of this section, and the  
163 consequences for failing to meet such requirements, which shall include  
164 the following:

165 (1) If the amount of capital investment made by the qualified  
166 manufacturing company is not made within the two-year period  
167 provided for such investment, the qualified manufacturing company  
168 shall immediately cease retaining any withholding tax with respect to  
169 jobs at the facility and it shall forfeit all rights to retain withholding

170 tax for the remainder of the withholding period. In addition, the  
171 qualified manufacturing company shall repay any amounts of  
172 withholding tax retained plus interest of five percent per  
173 annum. However, in the event that such capital investment shortfall is  
174 due to economic conditions beyond the control of the qualified  
175 manufacturing company, the director may, at the qualified  
176 manufacturing company's request, suspend rather than terminate its  
177 privilege to retain withholding tax under this section for up to three  
178 years. Any such suspension shall extend the withholding period by the  
179 same amount of time. No more than one such suspension shall be  
180 granted to a qualified manufacturing company;

181 (2) If the qualified manufacturing company discontinues the  
182 manufacturing of the new product and does not replace it with a  
183 subsequent or additional new product manufactured at the facility at  
184 any time during the withholding period, the qualified manufacturing  
185 company shall immediately cease retaining any withholding tax with  
186 respect to jobs at that facility and it shall forfeit all rights to retain  
187 withholding tax for the remainder of the withholding period.

188 9. Prior to March first each year, the department shall provide  
189 a report to the general assembly including the names of participating  
190 qualified manufacturing companies or qualified suppliers, location of  
191 such companies or suppliers, the annual amount of benefits provided,  
192 the estimated net state fiscal impact including direct and indirect new  
193 state taxes derived, and the number of new jobs created or jobs  
194 retained.

195 10. The department may promulgate rules to implement the  
196 provisions of this section. Any rule or portion of a rule, as that term is  
197 defined in section 536.010, that is created under the authority delegated  
198 in this section shall become effective only if it complies with and is  
199 subject to all of the provisions of chapter 536 and, if applicable, section  
200 536.028. This section and chapter 536 are nonseverable and if any of  
201 the powers vested with the general assembly under chapter 536 to  
202 review, to delay the effective date, or to disapprove and annul a rule  
203 are subsequently held unconstitutional, then the grant of rulemaking  
204 authority and any rule proposed or adopted after August 28, 2015 shall  
205 be invalid and void.

206 11. Under section 23.253 of the Missouri sunset act:

207           (1) The provisions of the new program authorized under this  
208 section shall automatically sunset August 28, 2021, unless reauthorized  
209 by an act of the general assembly; and

210           (2) If such program is reauthorized, the program authorized  
211 under this section shall automatically sunset twelve years after the  
212 effective date of the reauthorization of this section; and

213           (3) This section shall terminate on September first of the  
214 calendar year immediately following the calendar year in which the  
215 program authorized under this section is sunset.

Unofficial ✓

Bill

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